

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Garry R. WHYTE	Conf. No.:	7645
Serial No.:	10/624,872	Examiner:	Kidest BAHTA
Filed:	July 21, 2003	Art Unit:	2125
For:	CODE FOR OBJECT IDENTIFICATION		

**Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

This review is requested for the reason(s) states on the attached sheet(s). Note: no more than five (5) pages may be provided.


I am the:

- ☐ applicant/inventor
☐ assignee of record of the entire interest
 See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed)
☒ attorney or agent of record
☐ attorney or agent acting under 37 CFR 1.34

Total of ONE forms are submitted.

Customer No. 20575

Respectfully submitted,
MARGER JOHNSON & McCOLLOM, P.C.


David L. Roason
Reg. No. 43,054

MARGER JOHNSON & McCOLLOM
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ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF CONFERENCE

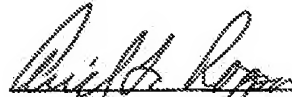
On August 6, 2007, the Examiner issued a Final Office Action. In rejecting the claims, the Examiner argued that “Examiner didn’t find any attach Declaration of 35 C.F.R. 1.131” (*see* Office Action dated August 6, 2007, page 14).

On September 18, 2007, the undersigned telephoned Examiner Bahta. The undersigned pointed out that the declaration of Garry Whyte had been filed. Attached as Exhibit 1 is a printout from PAIR showing that the declaration of Garry Whyte was filed on May 23, 2007; attached as Exhibit 2 is a copy of the declaration of Garry Whyte, as available from PAIR. In the telephone interview, the Examiner acknowledged the declaration of Garry Whyte in the file and confirmed that she would give it consideration before issuing a new action. In response to the Final Office Action, the Applicant submitted a response documenting this telephone interview.

The undersigned reminded the Examiner of her agreement to reconsider the declaration a few times. On January 30, 2008, the Examiner telephoned the undersigned, indicating that the declaration was considered insufficient. The Examiner agreed to mail out a new Office Action, reflecting her consideration of the declaration of Garry Whyte.

As of February 6, 2008, the Examiner has not mailed out any further Office Actions or Advisory Actions, describing her consideration of the declaration of Garry Whyte. Exhibit A shows that the Examiner has taken no action.

Respectfully submitted,
MARGER JOHNSON & McCOLLOM, P.C.



Ariel S. Rogson
Reg. No. 43,054

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